

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY)	
AVERAGE WHOLESALE PRICE)	MDL NO. 1456
LITIGATION)	
_____)	CIVIL ACTION: 01-CV-12257-PBS
)	
THIS DOCUMENT RELATES TO:)	Judge Patti B. Saris
ALL CLASS ACTIONS)	
_____)	

**PLAINTIFFS' ASSENTED-TO MOTION TO WITHDRAW WITHOUT PREJUDICE
PLAINTIFFS' MOTION TO COMPEL THE DEPOSITION OF ERIK Q. SCHULTZ
AND FOR ORDER ASSESSING FEES AND COSTS**

Plaintiffs respectfully request that this Court allow Plaintiffs to withdraw Plaintiffs’ Motion to Compel the Deposition of Erik Q. Schultz and For Order Assessing Fees and Costs scheduled for oral argument before Magistrate Judge Bowler on Monday, September 19, 2005.

Plaintiffs seek to withdraw their Motion without prejudice at this time because Mr. Schultz appeared for his deposition on Tuesday, September 13, 2005 in Phoenix, Arizona. During the course of the deposition, Mr. Schultz disclosed that he is currently employed by McKesson Corporation, but that McKesson was not aware he was giving testimony in this matter. Because McKesson would likely be a subject matter of testimony during the deposition, Plaintiffs' lawyer Elizabeth A. Fegan immediately stopped the deposition and contacted McKesson's counsel. Pursuant to agreement of all counsel present and McKesson's counsel, the deposition was suspended temporarily to allow attorneys for McKesson Corporation to prepare, attend and participate in light of Mr. Schultz's current employment with McKesson.

McKesson's attorneys have agreed to arrange for a mutually convenient date for the continuation of the deposition and to secure Mr. Schultz's attendance. As a result of Mr.

Schultz's appearance and the agreement to continue the deposition, plaintiffs suggest that this matter may be removed from the Court's hearing calendar.

Dated: September 16, 2005

Respectfully submitted,

By /s/ Steve W. Berman

Thomas M. Sobol
David S. Nalven
Edward Notargiacomo
Hagens Berman Sobol Shapiro LLP
One Main Street
Cambridge, MA 02142
Telephone: (617) 482-3700
Facsimile: (617) 482-3003

Steve W. Berman
Sean R. Matt
Hagens Berman Sobol Shapiro LLP
1301 Fifth Avenue, Suite 2900
Seattle, WA 98101
Telephone: (206) 623-7292
Facsimile: (206) 623-0594

Elizabeth A. Fegan
Hagens Berman Sobol Shapiro LLP
60 W. Randolph, Suite 200
Chicago, IL 60601
Telephone: (312) 762-9235
Facsimile: (312) 762-9286

LIAISON AND CO-LEAD COUNSEL

Eugene A. Spector
Jeffrey Kodroff
Spector, Roseman & Kodroff, P.C.
1818 Market Street, Suite 2500
Philadelphia, PA 19103
Telephone: (215) 496-0300
Facsimile: (215) 496-6611

Marc H. Edelson
Hoffman & Edelson
45 West Court Street
Doylestown, PA 18901
Telephone: (215) 230-8043
Facsimile: (215) 230-8735

Kenneth A. Wexler
Jennifer Fountain Connolly
The Wexler Firm LLP
One North LaSalle Street, Suite 2000
Chicago, IL 60602
Telephone: (312) 346-2222
Facsimile: (312) 346-0022

Samuel Heins
Brian Williams
Heins, Mills & Olson, P.C.
700 Northstar East
608 Second Avenue South
Minneapolis, MN 55402
Telephone: (612) 338-4605
Facsimile: (612) 338-4692

CO-LEAD COUNSEL

CERTIFICATE OF SERVICE

Docket No. MDL 1456

I, Elizabeth A. Fegan, hereby certify that I am one of plaintiffs' attorneys and that on September 16, 2005, I caused copies of Plaintiffs' Assented-To Motion To Withdraw Motion To Compel Deposition of Erik Q. Schultz and For Order Assessing Fees and Costs to be served via facsimile on the following counsel:

Lori A. Schechter
Morrison Foerster
425 Market Street
San Francisco, California 94105-2482
Phone: (415) 268-7000
Fax: (415) 268-7522

Steve Kaus
Cooper, White & Cooper
201 California Street, Seventeenth Floor
San Francisco, California 94111
Phone: (415) 433-1900
Fax: (415) 433-5530

Counsel for McKesson Corporation

D. Scott Wise
Kimberly Harris
Trisha Lawson
Monica Lamb
Davis Polk & Wardwell
450 Lexington Avenue
New York, NY 10017
Phone: 212 450 4000
Fax: 212 450 3800

Counsel for AstraZeneca

and on all other counsel of record via Verilaw on September 17, 2005 or the first date on which Verilaw had transitioned to Lexis/Nexis File & Serve and was again functional.

/s/ Elizabeth A. Fegan

Dated: September 16, 2005